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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/697,259	10/26/2000	Antulio Tarazona	99B140	3861

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EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/697,259

Applicant(s)

TARAZONA ET AL.

Examiner

Ramesh Krishnamurthy

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3 - 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 - 10 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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This office action is responsive to amendment filed on 09/17/02.

**Claims 1 and 3 – 11 are pending.**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 4 - 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gast et al..

Gast et al. discloses (Fig. 1) a valve comprising a housing having an inlet (9) and an outlet (10) spaced from each other with a passageway extending between the inlet and the outlet, means including a valve assembly (8, 1, 2, 3, 4, 6) movable (Col. 5, lines 21 – 36) between a first open position and a second closed position. A portion of the valve assembly incorporates the permanent magnet (8) and a further magnet (2, 4) is located adjacent the valve seat (6).

In regard to claim 4, it is noted that the further magnet (2, 4) is an electromagnet.

In regard to claim 5, it is noted that Gast et al. anticipate (Col. 5, lines 54 – 61) the use of a magnetic material for the valve seat.

In regard to claim 6, it is noted that the sealing pad (15) is indeed spherical.

In regard to claim 7, it is noted that the valve cap (1) is made of a magnetic material and the cap (1) is sealingly attached to the housing.

In regard to claim 8, it is noted that an electromagnet (1, 3) is incorporated within the valve cap.

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In regard to claim 9, it is noted that the "magnetic sleeve " is that portion of the cap that is on either side of the coil (3) and also includes the portion of (2) that is on either side of the coil (4).

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Zippe.

Zippe discloses (Fig. 4) a valve comprising a housing having an inlet spaced from an outlet with a passage extending between the inlet and the outlet. Means (15, 18, 16, 19) including a valve assembly located in the passageway for controlling the flow from the inlet to the outlet. The valve assembly incorporates a permanent magnet (19) together with a further permanent magnet (18) located adjacent the valve seat (15).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gast et al..

The patent to Gast et al. discloses the invention claimed with the exception of disclosing the further magnet located adjacent the valve seat to be a permanent magnet. However to provide a permanent magnet in lieu of an electromagnet adjacent the valve seat is considered to be design expedient over those features disclosed in Gast et al. in that it neither solves any stated problem nor provides any new and/or unexpected result.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gast et al. as applied to claims 1 and 4 - 9 above, and further in view of Tischer et al..

The patent to Gast et al. discloses all the claimed features with the exception of having a shock absorber. The patent to Tischer et al. discloses (Col. 6, lines 18 – 24) that it is known in the art to employ a shock absorber (50) for the purpose of reducing or eliminating the noise within the valve assembly resulting from the impact during seating of the valve. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Gast et al. a shock absorber for the purpose of reducing/eliminating impact noise as recognized by Tischer et al..

8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horchos et al. discloses fluid dispense valve incorporating magnets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (703) 305 - 5295. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Buiz, can be reached on (703) 308 - 0871. The fax phone number for the organization where this application or proceeding is assigned is (703) 308 - 7765.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.

Ramesh Krishnamurthy, Ph. D., PE  
Examiner  
Art Unit 3753  
October 31, 2002



*Michael Powell Buiz*  
Supervisory Patent Examiner  
US Patent & Trademark Office

*10/31/02*